

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO.: 0:22-CV-61553-DIMITROULEAS/HUNT

CRUZ VALDIVIESO FIGUERA,

Plaintiff,

vs.

ALL VIP CARE INC. AND
LIZ VELAZQUEZ MCKINNON,

Defendants.

**DEFENDANTS' MOTION FOR EXTENSION OF TIME TO FILE RESPONSE IN
OPPOSITION TO PLAINTIFF'S MOTION FOR DEFAULT JUDGMENT**

Defendants, ALL VIP CARE INC. and LIZ VELAZQUEZ MCKINNON by and through undersigned counsel, and pursuant to Southern District of Florida Local Rule 7.1 hereby requests an extension of time to file a Response In Opposition To Plaintiff's Motion For Default Judgment, and in support thereof provides the following good cause:

1. On October 31, 2024, Plaintiff filed a Verified Motion For Ex Parte Final Judgment following Default in Verified Agreement And Release [ECF 195].
2. Defendants intend to file a response in opposition to Plaintiff's motion, which would be due today, and are requesting for an extension of time to file the response.
3. On November 11, 2024, undersigned counsel was notified that the fifteen (15) year old grandson of Ms. McKinnon tragically and unexpectedly passed away.
4. Ms. McKinnon is the President of All VIP Care, Inc., both are the named Defendants in this case.
5. Defendants intend to file a response to oppose Plaintiff's motion who is seeking an improper amount of attorney's fees that exceeds the Court-awarded sum of \$149,073.91 as

determined in the Magistrate Judge's Report and Recommendation [ECF 175] and adopted by this Court on September 6, 2024 [ECF 182]; improperly seeking to add interest which Plaintiff is not entitled to; describe how Plaintiff improperly garnished Defendants' corporate bank accounts with an ex-parte Writ of Garnishment that was issued on September 20, 2024 [ECF 187] without an enforceable judgment, leaving Ms. McKinnon no choice but to enter into an agreement with Plaintiff's counsel under duress so the bank would release the funds in her corporate bank account to allow her to make payroll for her employees. Such are some of the irregularities and pressure tactics used by Plaintiff's counsel to attempt to collect the attorney's fees awarded by this Court – and then some.

6. So far, Plaintiff's counsel has already received the sum of \$100,000.00 of the \$149,073.91 awarded by the Court.

7. In an effort to resolve the pending issues amicably and without the need for judicial intervention, undersigned counsel has engaged in discussions with Plaintiff's counsel, and also notified him of the death of Ms. McKinnon's grandson.

8. Due to the tragic passing of Ms. McKinnon's grandson, she is currently taking time to grieve and be with her family who are dealing with this unexpected and unimaginably painful situation. As a result, she is currently unable to assist counsel with the issues that are being discussed between the parties.

9. Under the circumstances, undersigned counsel requests a 14-day extension of time, to file a response to Plaintiff's motion. As well, the additional time may allow the parties to continue discussions in an attempt to continue discussions and attempt to resolve the pending issues.

10. Counsel certifies that this motion is brought in good faith and not for any improper or dilatory purpose

WHEREFORE, Defendants ALL VIP CARE, INC. and LIZ VELASQUEZ MCKINNON, respectfully requests this Court grant Defendants' Motion For Extension of Time to file the response in opposition to Plaintiff's Motion For Default Judgment [ECF 195], and such other and further relief as this Court deems just and proper.

LOCAL RULE 7.3 CONFERRAL STATEMENT

I hereby certify that, Pursuant to Local Rule 7.3 a good faith effort to resolve issues by agreement are occurring, but that the parties were unable to resolve the issues as they relate to this motion.

Respectfully Submitted,

/s/Elizabeth P. Perez

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Counsel for Defendants

CERTIFICATE OF SERVICE

I hereby certify that a copy of this pleading which was filed with the Clerk of the Court was provided to Brian Pollock, Esq., Counsel for Plaintiff, at 135 San Lorenzo Ave., Ste. 770, Coral Gables, FL 33146, brian@fairlawgroup.com via the Court's ECM/ECF Portal on November 13, 2024.

/s/ Elizabeth P. Perez

Elizabeth P. Perez, Esq.